

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Crl. Revision No. 2630 of 2006

Date of decision : October 12, 2007

Rajinder Kaur

.. Petitioner

versus

State of Punjab and another

.. Respondents

Coram: Hon'ble Mr. Justice A.N. Jindal.

Present: Mr. S.S. Rang, Advocate
for the petitioner.

Mr. Munish Gupta, Advocate
for the respondent No.2.

A.N. Jindal, J.

This petition is directed against the judgment of acquittal dated 11.8.2006 passed by the Judicial Magistrate Ist Class, Patiala acquitting the accused under Sections 323/354 IPC.

Briefly stated, the facts of the case are that Rajinder Kaur was earlier married to Shadi Ram son of Lachhman Dass, resident of Ambala and out of the said wedlock two children namely Manoj aged 6 years and a daughter Manjit Kaur alias Money aged about 4- ½ years were born. Shadi Ram expired, later on she contracted kareva marriage with Ranjit Singh son of Jee Ram. At the time of marriage, Jee Ram had transferred one acre of land falling to the share of Ranjit Singh in her name and also purchased FDR in the name of her son Manoj for a sum of Rs.5,000/-. She could not repose confidence in Ranjit Singh. On 9.8.2001, Jarnail Singh and Surjit Singh came to her residential house to meet her. At around 9.00 PM, after

taking meals, they went to sleep in the upper portion of the house, whereas she along with Ranjit Singh went to sleep in the courtyard, where both the children were also sleeping. At around 10.00 PM, her husband Ranjit Singh with mala fide intention opened the salwar of Money and started giving bites on her cheeks. She started screaming. At this, she woke up and when Jarnail Singh and Surjit Singh came down, the respondent fled away.

On the next day i.e. 10.8.2001, she got admitted Money in the Rajindra Hospital, Patiala. Ultimately, when the accused failed to settle the matter, a case was registered against him under Sections 323/354 IPC on 14.8.2001.

The case was investigated and ultimately a report under Section 173 Cr.P.C. was presented in the Court.

Pursuant to the charge framed against the respondent under Sections 323/354 IPC, the prosecution was called upon to lead evidence. Thereafter, the respondent was examined under Section 313 Cr.P.C. Ultimately, the trial ended in acquittal.

Arguments heard. Record perused.

There is a serious delay of 4 days in lodging the FIR. It was not a case of actual rape or much less attempt thereof. The allegations against the respondent are that he started giving bites on the cheeks of Money, therefore, there should have been no hitch in lodging the FIR, if the facts as unfolded by the prosecution would have been true. It is not only the delay which has created dent in the prosecution case but it is shrouded by various improbabilities and contradictions and the ocular version does not fit in with the medical evidence. Dr. Sanjay Bansal (PW2), who medico-

legally examined the injured, has not ruled out the possibility of injuries on the person of Money as a result of animal bites. He has specifically stated that it is not possible that the bite will give only one upper "C" mark and not lower one. Even the bite was not with the less force so as to create only one mark as the injured was bleeding due to the said bite. Further the bite in question is coupled with the abrasions of the other parts of her body. It was further elaborated by him that the accused gave bite on the face of Money, whereas there are injuries on other parts of her body.

The evidence further transpires that the complainant Rajinder Kaur woke up after bites were given. It is hard to believe that a child of such tender age would bear the bites up to the last one. It is also hard to believe that the respondent would commit such a crime in the presence of his own wife and also when his brothers-in-law Jarnail Singh and Surjit Singh are sleeping along with other family members in the house. Under these circumstances the trial court was right in holding that the prosecution has failed to establish the case against the respondent beyond reasonable doubt.

Consequently, I do not find any material irregularity or such grave illegality in conducting of the trial, warranting interference by this Court.

Resultantly, the instant revision petition being unmerited is hereby dismissed.

October 12, 2007
deepak

(A.N. Jindal)
Judge